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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region IX

In The Matter Of:

The Del Amo Superfund Site,  
and  
Montrose Chemical Superfund Site  
Los Angeles, California  
Groundwater Operable Unit

Shell Oil Company, and  
United States General  
Services Administration.

Respondents

) U.S. EPA  
) Docket No. 2003-08

Proceeding Under Section 106(a) of the  
Comprehensive Environmental Response,  
Compensation, and Liability Act of 1980,  
as amended (42 U.S.C. § 9606(a))

ADMINISTRATIVE ORDER

FOR INITIAL REMEDIAL DESIGN WORK

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## I. INTRODUCTION AND JURISDICTION

A. This Administrative Order ("Order") directs Respondent, Shell Oil Company, to perform initial remedial design work for the remedy set forth in the Record of Decision for Dual Site Groundwater Operable Unit, Montrose Chemical and Del Amo Superfund Sites (March 1999) ("ROD") (Attachment 1 to this Order). The obligations of Respondent United States General Services Administration (hereinafter referred to as "Respondent GSA") are addressed in Paragraph 16 of this Order. This Order is issued to Respondents by the United States Environmental Protection Agency ("EPA") under the authority vested in the President of the United States by section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9606(a). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2923, January 29, 1987. This authority was further delegated to EPA Regional Administrators on September 13, 1987 by EPA Delegation No. 14-14-B, and was further delegated to the respective Superfund Branch Chief, by the corresponding Region IX delegation dated November 6, 2001.

B. Following the issuance of this Order, EPA intends to initiate special notice negotiations for groundwater remedial design response actions pursuant to CERCLA Section 122(e), 42 U.S.C. Section 9622(e). The issuance of this unilateral administrative order will allow initial remedial design activities by Respondent Shell Oil Company to continue while these negotiations are occurring and as a result, will expedite the remedial design process.

## II. FINDINGS OF FACT

### 1. History

A. The Del Amo and Montrose Chemical National Priorities List Superfund Sites (the "Sites") are located in Los Angeles County, California. The Del Amo Superfund Site was added to the CERCLA National Priorities List in 2003. The Montrose Superfund Site was added to the CERCLA National Priorities List in 1989.

B. From 1942 through 1971, a synthetic rubber manufacturing facility, consisting of three separate plants, covered 280 acres at the Del Amo Site. From 1942 until 1955, the rubber manufacturing operation consisted of a styrene plant operated by Dow Chemical Company, a butadiene plant operated by Shell Oil Company, and a synthetic rubber (copolymer) plant operated by U.S. Rubber Company, Goodyear Tire & Rubber Company, and others. During this period, the United States owned all three plants, which were operated by the above-noted companies under agreements with the United States. In 1955, the United States sold all three plants to Respondent Shell Oil Company, and Shell continued to operate these plants until 1971.

C. Since 1992, Respondent has been conducting a remedial investigation/feasibility study (RI/FS) for the Del Amo Superfund Site under an administrative order on consent with EPA. Since 1985, Montrose Chemical Corporation has been conducting an RI/FS for the Montrose Chemical Superfund Site.

### 2. Respondents

Respondent Shell Oil Company owned and operated a synthetic rubber manufacturing

1 facility on 280 acres in Los Angeles, California from 1955 until 1971. From the mid-1940's  
2 through 1971, hazardous substances were disposed at the facility. Respondent GSA has been  
3 administratively assigned certain responsibilities attributable to the various federal government  
4 corporations and entities that owned the subject synthetic rubber manufacturing facility on behalf  
5 of the United States for a period of time during and following World War. II. Those federal  
6 government corporations and entities have been terminated. During their ownership of the  
7 subject synthetic rubber manufacturing facility, hazardous substances, including some or all of  
8 those substances defined in Paragraph 3 below, were disposed of at the Del Amo Site.

9  
10 3. Releases of Hazardous Substances  
11

12 A. Releases of hazardous substances from the former Del Amo Synthetic Rubber  
13 Manufacturing facility, including but not limited to benzene, ethylbenzene, trichloroethylene  
14 (TCE) and naphthalene, have resulted in hazardous substance contamination in groundwater.  
15 Benzene is present in groundwater at concentrations up to approximately 1,700,000 ppb.  
16

17 B. Releases of hazardous substances from the former DDT pesticide manufacturing  
18 facility operated by Montrose Chemical Corporation at 20201 Normandie Avenue in Los  
19 Angeles County, California, including but not limited to chlorobenzene, DDT and  
20 parachlorobenzene sulfonic acid, have resulted in hazardous substance contamination in the  
21 groundwater. Chlorobenzene is present in groundwater at concentrations up to approximately  
22 400,000 ppb.  
23

24 C. Contamination in groundwater (i.e. contamination in the dissolved phase) from  
25 the Del Amo and Montrose Superfund Sites has partially commingled or merged. As a result,  
26 the dissolved phase groundwater contamination from the Sites is being addressed by EPA as a  
27  
28

1 single technical problem.

2  
3 D. There is an undetermined quantity of benzene in the form of light  
4 non-aqueous phase liquid (LNAPL) in the vadose zone and in groundwater beneath areas  
5 formerly occupied by the subject synthetic rubber facility. This LNAPL primarily consists of  
6 benzene and this LNAPL represents a major source of contamination that will continue to  
7 threaten groundwater indefinitely. Benzene was used as a feedstock chemical at the subject  
8 synthetic rubber facility. Large quantities of benzene were transported to the facility by pipeline  
9 and by rail. Benzene was stored in tanks at the facility and used primarily at the styrene plant  
10 within the subject synthetic rubber facility. Benzene was also present in waste disposed of at the  
11 waste pits and ponds at the synthetic rubber facility (now known as the Waste Pit Operable Unit  
12 of the Del Amo Superfund Site).

13  
14 E. Hazardous substances originating at the Montrose Plant Property and the Del Amo  
15 Synthetic Rubber Plant Property have migrated in groundwater up to 1.3 miles downgradient  
16 from these properties.

17  
18 4. Summary of Risks

19  
20 A. Human health excess cancer risks from consumption of contaminated  
21 groundwater at the Sites are as much as 12,000 times greater than the level that EPA considers  
22 acceptable. Currently, contaminated groundwater at the Sites is not being used, in part due to the  
23 contamination. However, the State of California has classified the groundwater at the Sites as  
24 potential sources of drinking water. Hazardous substance contamination in the groundwater at  
25 the Sites exceeds drinking water maximum contaminant levels for a number of hazardous  
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28

1 substances including but not limited to chlorobenzene, benzene, ethylbenzene, chloroform, and TCE.

2  
3 B. Actual or threatened releases of hazardous substances to and in groundwater at the  
4 Sites may present an imminent and substantial endangerment to public health, welfare, or the  
5 environment.

6  
7 5. Record of Decision

8  
9 A. The Record of Decision for Dual Site Groundwater Operable Unit, Montrose and  
10 Del Amo Superfund Sites (March 1999) (ROD) selected remedial actions to address potential  
11 human exposures to contaminated groundwater at the Sites, and to restore groundwater in the  
12 area. The ROD is based on the underlying administrative record which includes, but is not  
13 limited to, the Final Remedial Investigation Report for the Montrose Superfund Site (1998), the  
14 Final Groundwater Remedial Investigation Report for the Del Amo Study Area (1998) and the  
15 Joint Groundwater Feasibility Study for the Montrose and Del Amo Sites (1998). The ROD was  
16 issued after public notice and comment on EPA's proposed groundwater remedial actions and the  
17 administrative record file. EPA's consideration of and responses to comments received from  
18 members of the public during the public comment period are contained in Volume II of the ROD.

19  
20 B. The ROD selected a number of remedial actions, including a number of different  
21 technologies and approaches, to address groundwater contamination at the Sites including but  
22 not limited to:

23  
24 containment of dissolved-phase groundwater contamination that surrounds  
25 the non-aqueous phase liquid that is present in portions of the groundwater  
26 at the Sites; and  
27

1 reduction of concentrations of dissolved contaminants in groundwater, outside  
2 the area of groundwater being contained, to levels that no longer pose an  
3 unacceptable risk to human health.

4  
5 6. Enforcement Efforts  
6

7 A. In 1994, EPA issued a notice letter to Respondents notifying Respondents that  
8 EPA considered Respondents to be potentially responsible parties with respect to response costs  
9 that had been or may be incurred with respect to the groundwater contamination at the Del Amo  
10 Superfund Site and the Montrose Superfund Site.

11  
12 B. After discussing the Attached Statement of Work with EPA, Respondent  
13 Shell Oil Company has indicated its willingness to perform the initial remedial design work (as  
14 set out in the attached Statement of Work) pursuant to a CERCLA Unilateral Order. Respondent  
15 GSA has indicated its consent to the issuance of this Order.

16  
17 III. CONCLUSIONS OF LAW AND DETERMINATIONS  
18

19 7. The Del Amo Superfund Site is a "facility" as defined in Section 101(9) of CERCLA, 42  
20 U.S.C. Section 9601(9). The Montrose Chemical Superfund Site is also a "facility" as defined in  
21 Section 101(9) of CERCLA, 42 U.S.C. § 9601(9). The Joint Site as set forth in Section 6 of the  
22 ROD is also a facility as defined in Section 101(9) of CERCLA § 9601(9).

23  
24 8. Each Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C.  
25 § 9601(21).  
26  
27  
28

1 9. Respondents are "liable parties" as defined in Section 107(a) of CERCLA, 42 U.S.C.  
2 § 9607(a), and are subject to this Order under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

3  
4 10. Benzene, chlorobenzene, DDT, DDE, DDD, PCE, TCE, chloroform, naphthalene,  
5 ethylbenzene and other contaminants are present in the commingled contaminated groundwater  
6 plume at the Montrose Chemical and Del Amo Superfund Sites and are "hazardous substances"  
7 as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

8  
9 11. The disposal and subsequent migration of hazardous substances at the Sites constitute a  
10 "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

11  
12 12. The actual and potential for future migration of hazardous substances at and from the  
13 Sites poses a threat of a "release" as defined in Section 101(22) of CERCLA, 42 U.S.C.  
14 § 9601(22).

15  
16 13. The release and threat of release of one or more hazardous substances at and from the Del  
17 Amo or Montrose Superfund site may present an imminent and substantial endangerment to the  
18 public health or welfare or the environment.

19  
20 14. The actions required by this Order are necessary to protect the public health or welfare or  
21 the environment.

1 IV. NOTICE TO THE STATE

2  
3 15. Prior to issuing this Order, in December 2002 and on other occasions subsequent to that  
4 date, EPA notified the California Environmental Protection Agency, Department of Toxic  
5 Substances Control, that EPA would be issuing this Order.  
6

7 V. ORDER

8  
9 16. Based on the foregoing, Respondent Shell Oil Company is hereby ordered to comply with  
10 the following provisions and requirements of this Order, including, but not limited to, all  
11 attachments to this Order, all documents incorporated by reference into this Order, or  
12 incorporated by reference into this Order, and all schedules and deadlines in established by or  
13 through the attached Statement of Work. As used in Paragraphs 18 through 58, 63, 64, and 67  
14 through 70 as well as in the attached Statement of Work, the term Respondent shall mean Shell  
15 Oil Company. However, the United States and Shell Oil Company have entered into an interim  
16 settlement agreement (effective April 23, 1998) (the Interim Settlement) under which the United  
17 States, on behalf of GSA and any other federal agency that may be a liable party under CERCLA  
18 for the Del Amo Site, has agreed to reimburse Shell Oil Company, on an interim and non-binding  
19 basis, for a portion of the necessary costs of response incurred by Shell Oil Company at the Del  
20 Amo Site. Respondent GSA shall have no further obligations under this Order beyond the  
21 United States' obligations set forth in the Interim Settlement. Any disputes regarding that  
22 Interim Settlement shall be resolved in accordance with the provisions of that settlement, and this  
23 Order shall not be construed as amending or altering that Settlement.  
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1 VI. DEFINITIONS

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3 17. Unless otherwise expressly provided herein, terms used in this Order which are defined in  
4 CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to  
5 them in the CERCLA or its implementing regulations. Terms specifically defined in the ROD  
6 shall have the same definition as in the ROD, unless otherwise noted below. Whenever terms  
7 listed below are used in this Order or in the documents attached to this Order or incorporated by  
8 reference into this Order, the following definitions shall apply:  
9

10 A. "CERCLA" shall mean the Comprehensive Environmental Response,  
11 Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.  
12

13 B. "Day" shall mean a calendar day unless expressly stated to be a working day.  
14 "Working Day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In  
15 computing any period of time under this Order, where the last day would fall on a Saturday,  
16 Sunday, or Federal holiday, the period shall run until the end of the next Working Day.  
17

18 C. "DTSC" shall mean the California Environmental Protection Agency, Department  
19 of Toxic Substances Control.  
20

21 D. "EPA" shall mean the United States Environmental Protection Agency.  
22

23 E. "National Contingency Plan" or "NCP" shall mean the National Contingency Plan  
24 promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part  
25 300, including any amendments thereto.  
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1 F. "Paragraph" shall mean a portion of this Order identified by an arabic numeral.

2  
3 G. "Performance Standards" shall mean those cleanup standards, standards of  
4 control, and other substantive requirements, criteria or limitations, identified in the Record of  
5 Decision, that the remedial action and/or the Work required by this Order must attain and  
6 maintain (including, but not necessarily limited to, the requirements and specifications identified  
7 in pages 38 through 46 of the Record of Decision and in Attachment A to the Record of  
8 Decision).

9  
10 H. "Record of Decision" or "ROD" shall mean the EPA Record of Decision for  
11 Dual Site Groundwater Operable Unit, Montrose Chemical and Del Amo Superfund Sites  
12 (March 1999) (two volumes) (Attachment 1 to this Order).

13  
14 I. "Remedial Design" or "RD" shall mean those activities to be undertaken by  
15 Respondent to develop the final plans and specifications for the remedial action. "Initial  
16 Remedial Design Work" shall mean that portion of the Remedial Design being conducted by  
17 Respondent under this Order.

18  
19 J. "Response Costs" shall mean all costs, including direct costs, indirect costs, and  
20 accrued interest, incurred by the United States to perform or support response actions at the Sites.  
21 Response costs include but are not limited to the costs of overseeing the Work, such as the costs  
22 of reviewing or developing plans, reports and other items pursuant to this Order and costs  
23 associated with verifying the Work.

1 K. "Statement of Work" or "SOW" shall mean the statement of work for  
2 implementation of the Initial Remedial Design Work, as set forth in Attachment 2 to this Order.  
3 The Statement of Work is incorporated into this Order and is an enforceable part of this Order.  
4

5 L. "Section" shall mean a portion of this Order identified by a roman numeral and  
6 includes one or more paragraphs.  
7

8 M. "Sites" unless otherwise specified shall mean the Montrose Chemical and Del  
9 Amo national priorities list Superfund sites.  
10

11 N. "State" shall mean the State of California.  
12

13 O. "United States" shall mean the United States of America.  
14

15 P. "Work" or "Initial Remedial Design Work" shall mean those activities that  
16 Respondent is required to perform under this Order.  
17

## 18 VII. NOTICE OF INTENT TO COMPLY 19

20 18. Respondent shall provide, not later than five (5) days after the effective date of this  
21 Order, written notice to EPA's Remedial Project Manager (RPM) stating whether Respondent  
22 will comply with the terms of this Order. If Respondent does not unequivocally commit to  
23 perform the RD as provided by this Order, Respondent shall be deemed to have violated this  
24 Order and to have failed or refused to comply with this Order. Respondent's written notice shall  
25 describe, using facts that exist on or prior to the effective date of this Order, any "sufficient  
26 cause" defenses asserted by Respondent under sections 106(b) and 107(c)(3) of CERCLA. The  
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1 absence of a response by EPA to the notice required by this paragraph shall not be deemed to be  
2 acceptance of Respondent's assertions.

#### 4 VIII. PARTIES BOUND

6 19. This Order shall apply to and be binding on Respondent Shell Oil Company, its directors,  
7 officers, employees, agents, successors, and assigns. Respondent is responsible for carrying out  
8 all activities required by this Order. No change in the ownership, corporate status, or other  
9 control of Respondent shall alter any of the Respondent's responsibilities under this Order.  
10 Respondent GSA's obligations are established in Paragraph 16 of this Order

12 20. Respondent shall provide a copy of this Order to any prospective owners or successors  
13 before a controlling interest in Respondent's assets, property rights, or stock is transferred to the  
14 prospective owner or successor.

16 21. Respondent shall provide a copy of this Order to each contractor, sub-contractor,  
17 laboratory, or consultant retained to perform any Work under this Order, within five (5) days  
18 after the effective date of this Order or on the date such services are retained, whichever date  
19 occurs later. Respondent shall also provide a copy of this Order to each person representing  
20 Respondent with respect to the Work and shall condition all contracts and subcontracts entered  
21 into hereunder upon performance of the Work in conformity with the terms of this Order. With  
22 regard to the activities undertaken pursuant to this Order, each contractor and subcontractor shall  
23 be deemed to be related by contract to the Respondent within the meaning of section 107(b)(3) of  
24 CERCLA, 42 U.S.C. § 9607(b)(3). Notwithstanding the terms of any contract, Respondent is  
25 responsible for compliance with this Order and for ensuring that its contractors, subcontractors,  
26 and agents comply with this Order, and perform any Work in accordance with this Order.

1 22. Not later than sixty (60) days prior to any transfer of any real property interest in any  
2 property included within the Montrose Chemical Site, including, but not limited to the Montrose  
3 Plant property, Respondent shall submit a true and correct copy of the transfer documents to  
4 EPA, and shall identify the transferee by name, principal business address and effective date of  
5 the transfer.

6  
7 IX. WORK TO BE PERFORMED  
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9 23. Respondent shall cooperate with EPA in providing information regarding the Work to the  
10 public. At EPA's request and under EPA's direction, Respondent shall participate in the  
11 preparation of such information for distribution to the public and may participate in public  
12 meetings which may be held or sponsored by EPA to explain the Initial Remedial Design Work.  
13 Respondent shall not present technical information, sample results, or technical interpretations to  
14 the public independently without prior EPA approval.

15  
16 24. All aspects of the Initial Remedial Design Work to be performed by Respondent pursuant  
17 to this Order shall be under the direction and supervision of a qualified project manager, the  
18 selection of which shall be subject to approval by EPA. Not later than five (5) days after the  
19 effective date of this Order, Respondent shall notify EPA in writing of the name and  
20 qualifications of the project manager, including primary support entities and staff (if any),  
21 proposed to be used in carrying out Work under this Order. If at any time Respondent proposes  
22 to use a different project manager, Respondent shall notify EPA and shall obtain approval from  
23 EPA before the new project manager performs any Work under this Order.

24  
25 25. EPA will review Respondent's selection of a project manager. If EPA disapproves of the  
26 selection of the project manager, Respondent shall submit to EPA, within thirty (30) days after  
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1 receipt of EPA's disapproval of the project manager previously selected, a list of project  
2 managers, including primary support entities and staff, if any, that would be acceptable to  
3 Respondent. EPA will thereafter provide written notice to Respondent of the names of the  
4 project manager(s) that are acceptable to EPA. Respondent may then select any approved project  
5 manager from that list and shall notify EPA of the name of the project manager selected within  
6 twenty-one (21) days of EPA's designation of approved project manager(s).

7  
8 26. The Work conducted by Respondent under this Order shall generally be consistent with  
9 EPA's "Remedial Design/Remedial Action (RD/RA) Handbook, OSWER Guidance 9355.0-  
10 04B."

11  
12 27. Respondent shall perform the Work required by the Order as further defined by the  
13 attached SOW. In performing the Work required by this Order, Respondent shall follow the  
14 requirements and procedures of this Order, of the SOW, and of any EPA approved plans or  
15 schedules as required under the SOW to this Order. Any violation of any EPA approved plan or  
16 schedule shall be a violation of this Order. In accordance with Task 2 of the attached SOW to  
17 this Order, the Respondent shall submit to EPA a Remedial Design Activity Plan and Schedule  
18 (RDAPS) which, upon EPA's approval, shall contain the enforceable schedule for the Work  
19 under this Order. The RDAPS shall be submitted to EPA by the Respondent within twenty-one  
20 (21) days of the effective date of this Order. The Respondent shall modify the RDAPS in  
21 accordance with EPA Comments, if any, and shall submit the modified RDAPS within ten (10)  
22 days of receipt of EPA's comments. If the Respondent fails to issue a draft RDAPS per the  
23 timeframes in this paragraph, or fails to issue a final RDAPS in accordance with EPA's  
24 comments within the timeframes in this paragraph, such failure shall be deemed a violation of this  
25 Order and EPA may, at its discretion, unilaterally issue the RDAPS, which shall contain the  
26 enforceable schedule for Work under this Order per the SOW.

1 28. Until EPA issues written approval of any Work performed by Respondent or of  
2 submission by Respondent to EPA, such Work or submission will not be deemed to have been  
3 approved by EPA.  
4

5 29. All Work conducted by Respondent under this Order shall be conducted in a manner  
6 consistent, as determined by EPA, with the SOW and with the remedial actions selected in the  
7 Record of Decision, including but not limited to the Performance Standards and ARARs  
8 established in the ROD. EPA has the right to direct, oversee, approve or disapprove of any and  
9 all Work performed by Respondent under this Order.  
10

11 30. Notwithstanding any action by EPA, Respondent remains fully responsible for  
12 achievement of the Performance Standards in the Record of Decision. Nothing in this Order, or  
13 in the Statement of Work, or in EPA's approval of any Initial Remedial Design Work or any  
14 other submission, shall be deemed to constitute a warranty or representation of any kind by EPA  
15 that full performance of the Remedial Design will achieve the Performance Standards set forth in  
16 the ROD. Respondent's compliance with submissions approved by EPA does not foreclose EPA  
17 from seeking additional work to achieve the applicable Performance Standards.  
18

#### 19 X. FAILURE TO ATTAIN PERFORMANCE STANDARDS 20

21 31. In the event that EPA determines that additional response activities are necessary to meet  
22 applicable Performance Standards, ARARs or ROD requirements related to the Initial Remedial  
23 Design Work, EPA may require Respondent to perform additional activities. Unless otherwise  
24 stated by EPA, within thirty (30) days of receipt of notice from EPA that additional response  
25 activities are necessary, Respondent shall submit for approval by EPA a work plan for additional  
26 activities. The plan shall conform to the applicable requirements of this Order. Upon EPA's  
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1 approval of the plan, Respondent shall implement the plan for additional remedial design  
2 activities in accordance with the provisions and schedule contained therein.

#### 4 XI. ENDANGERMENT AND EMERGENCY RESPONSE

6 32. In the event of any action or occurrence during the performance of the Work which  
7 causes or threatens to cause a release of a hazardous substance or which may present an  
8 immediate threat to public health or welfare or the environment, Respondent shall immediately  
9 take all appropriate actions to prevent, abate, or minimize the threat, and shall immediately notify  
10 EPA's Remedial Project Manager (RPM) or, if the RPM is unavailable, EPA's Section Chief. If  
11 neither of these EPA employees is available, Respondent shall notify the EPA Emergency  
12 Response Section, Region IX. Respondent shall take such action in consultation with EPA's  
13 RPM and in accordance with all applicable provisions of this Order, including, but not limited to,  
14 the Health and Safety Plan and the RD Contingency Plan. In the event that Respondent fails to  
15 take appropriate response action as required by this Section, and EPA takes that action instead,  
16 EPA reserves the right to bring an action under Section 107 of CERCLA, 42 U.S.C. Section  
17 9607, for the recovery of all costs not inconsistent with the NCP. Section XVI of this Order  
18 identifies the EPA RPM and Section Chief and describes the procedure for changing these  
19 designations. The requirements of this paragraph are in addition to, and do not alter,  
20 Respondent's obligation to comply with the requirements of any applicable state or Federal law,  
21 including but not limited to the reporting requirements of Section 103(a) of CERCLA, 42 U.S.C.  
22 Section 9603(a).

24 33. Nothing in the preceding paragraph shall be deemed to limit any authority of the United  
25 States to take, direct, or order all appropriate action to protect human health and the environment

1 or to prevent, abate, or minimize an actual or threatened release of hazardous substances on, at,  
2 or from the Montrose Chemical and/or Del Amo Sites.

## 4 XII. EPA REVIEW OF SUBMISSIONS

6 34. After review of any deliverable, plan, report or other item which is required to be  
7 submitted for review and approval pursuant to this Order, EPA may:

8 A) approve the submission;

9 B) approve the submission with modifications;

10 C) issue comments on the submission and require Respondent to re-submit the  
11 submission for EPA review and approval;

12 D) disapprove the submission and direct Respondent to re-submit the document after  
13 incorporating EPA's comments; or,

14 E) disapprove the submission and assume responsibility for performing all or any part of  
15 the response action.

16  
17 35. In the event of approval or approval with modifications by EPA per Paragraph 34 of this  
18 Order, Respondent shall proceed to take any action required by the plan, report, or other item, as  
19 approved or modified by EPA.

20  
21 36. Upon receipt of EPA comments on any submission or an EPA notice of disapproval and  
22 a request for a modification per Paragraph 34 of this Order, Respondent shall, within fifteen (15)  
23 days or such longer time (as specified by EPA in its comment letter or notice of disapproval or  
24 request for modification), correct the deficiencies, perform any other required Work and resubmit  
25 the plan, report, or other item for EPA review and approval. Notwithstanding the notice of  
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1 disapproval, or approval with modifications, Respondent shall proceed, at the direction of EPA,  
2 to take any action required by any non-deficient portion of the submission.

3  
4 37. If any submission is disapproved by EPA pursuant to Paragraph 34 of this Order,  
5 Respondent shall be deemed to be in violation of this Order.

6  
7 **XIII. PROGRESS REPORTS**  
8

9 38. In addition to the other deliverables set forth in this Order, Respondent shall provide  
10 progress reports to EPA with respect to actions and activities undertaken pursuant to this Order.  
11 The timing of submittal of progress reports shall be based on the schedule for technical and  
12 administrative meetings in accordance with Task 1.1 and 1.2 of the SOW. The Respondent shall  
13 issue a progress report at least five (5) calendar days before each scheduled meeting (either  
14 technical or administrative). If a meeting date is moved with EPA approval, the submittal  
15 deadline for the progress report shall be moved to 5 days before the new date of the meeting. If  
16 a technical or administrative meeting is skipped entirely, the the Respondent may skip the  
17 submittal of the progress report, unless submittal of the progress report is otherwise specifically  
18 requested by EPA in writing. At a minimum these progress reports shall:

19 A) describe the actions which have been taken to comply with this Order during the prior  
20 month;

21 B) describe all Work planned for the next three months with schedules relating such  
22 Work to the overall project schedule for RD completion; and,

23 C) describe all problems encountered with the overall implementation of this Order and  
24 any anticipated problems, any actual or anticipated delays, and solutions developed and  
25 implemented to address any actual or anticipated problems or delays.

#### XIV. QUALITY ASSURANCE, SAMPLING AND DATA ANALYSIS

39. Respondent shall use quality assurance, quality control, and chain of custody procedures for all samples in accordance with "EPA Requirements for Quality Assurance Project Plans" (March 2001) (EPA QA/R5); "Sampling and Analysis Guidance and Template" (Version 2, R9QA/002, March 2000), and subsequent amendments to such guidance upon notification by EPA to Respondent of such amendment. Amended guidance shall apply only to procedures conducted after EPA notification. Deviations to guidance, identified above, may be made by the Respondent with prior EPA written approval. Prior to commencement of any monitoring or sampling field effort under this Order, Respondent shall submit for EPA approval a Field Sampling Plan for the effort and also submit (or propose applying a previously EPA- approved and applicable) Quality Assurance Project Plan (QAPP) consistent with the requirements and procedures set out in the SOW. Respondent shall ensure that EPA personnel and its authorized representatives are allowed access at reasonable times to all laboratories utilized by Respondent in implementing the Work. In addition, Respondent shall ensure that such laboratories shall analyze all samples submitted pursuant to the QAPP for quality assurance monitoring. Respondent shall ensure that the laboratories that Respondent utilizes for analysis of samples taken pursuant to this Order perform all analyses according to accepted EPA methods. Accepted EPA methods consist of those methods which are documented in the "Contract Lab Program Statement of Work for Multimedia, Multiconcentration Inorganic Analysis" (Doc. No. ILM05.2) (Sept. 2002) and the "Contract Lab Program Statement of Work for Multimedia, Multiconcentration Organic Analysis" (Doc. No. OLM04.2) (Fall 1999), and any amendments thereto made during the course of implementation of this Order. Respondent shall also ensure that all laboratories Respondent uses for analyses of samples taken pursuant to this Order participate in an EPA or EPA-equivalent QA/QC program. Respondent shall ensure that all field methodologies utilized in collecting samples for subsequent analysis pursuant to this Order will

1 be conducted in accordance with the procedures set forth in the QAPP approved by EPA. Upon  
2 the request of EPA, Respondent shall provide copies of laboratory standard operating procedures  
3 (SOP), method detection limit studies, and recovery analyses for methods being used. Should  
4 respondent identify the need to use modified methods, Respondent shall propose such methods to  
5 EPA, provide complete details of modifications proposed and laboratory documentation  
6 demonstrating the performance of the modified method, and receive EPA approval prior to using  
7 the modified methods.

8  
9 40. Respondent shall notify EPA not less than fourteen (14) days in advance of any sample  
10 collection activity. At the request of EPA, Respondent shall allow EPA or EPA's  
11 representative(s) to take split or duplicate samples of any samples collected by Respondent with  
12 regard to the Work. In addition, EPA shall have the right to take any additional samples that  
13 EPA deems necessary. Respondent shall follow all field work provisions as set forth in the  
14 SOW.

15  
16 41. Respondent shall submit to EPA on a timely basis copies of all sampling results,  
17 underlying data packages, QA/QC information and/or any other test results or data obtained or  
18 generated by, or on behalf of, Respondent with respect to Work required under this Order.

19  
20 XV. COMPLIANCE WITH APPLICABLE LAWS

21  
22 42. All activities by Respondent pursuant to this Order shall be performed in accordance with  
23 or designed to comply with the requirements of all Federal and state laws and regulations,  
24 including, but not limited to the applicable or relevant and appropriate requirements (ARARs)  
25 and other laws identified in the ROD. EPA has determined that the activities contemplated by  
26 this Order will be consistent with the National Contingency Plan (NCP).

1 43. Except as provided in section 121(e) of CERCLA (42 U.S.C. Section 9621(e)) and the  
2 NCP, no permit shall be required for any portion of the Work conducted entirely on-site. Where  
3 any portion of the Work requires a Federal or state permit or approval, Respondent shall submit  
4 timely applications and take all other actions necessary to obtain and to comply with all such  
5 permits or approvals.

6  
7 44. This Order is not, and shall not be construed to be, a permit issued pursuant to any  
8 Federal or state statute or regulation.

9  
10 XVI. REMEDIAL PROJECT MANAGER

11  
12 45. All communications, whether written or oral, from Respondent to EPA shall be directed  
13 to EPA's Remedial Project Manager or, if the RPM is unavailable, to the EPA Section Chief.  
14 Respondent shall submit to EPA three copies of all documents, including plans, reports, and  
15 other correspondence, which are developed pursuant to this Order, and shall send these  
16 documents by overnight mail, unless otherwise specified by the RPM. Respondent shall also  
17 submit one copy of each document to the DTSC representative identified below. At EPA's  
18 request, one or more of these copies shall be sent directly to the EPA support contractor for this  
19 project.

20 EPA's Remedial Project Manager is:

21 Jeff Dhont  
22 Remedial Project Manager  
23 U.S. Environmental Protection Agency  
24 75 Hawthorne Street (SFD 7-1)  
San Francisco, CA 94105  
(415) 972-3020

25 EPA's Section Chief is:

26 Roberta Blank  
27 Chief, Site Cleanup Section 1

1 U.S. Environmental Protection Agency  
2 75 Hawthorne Street (SFD 7-1)  
3 San Francisco, CA 94105  
4 (415) 972-3169

5 DTSC's Representative is:

6 Gloria Conti  
7 Department of Toxics Substances Control, Region 4  
8 5796 Corporate Avenue  
9 Cypress, CA 90630  
10 (714) 484-5496

11 EPA has the unreviewable right to change its Remedial Project Manager, or Section Chief. If  
12 EPA changes its Remedial Project Manager or Section Chief, EPA will inform Respondent in  
13 writing of the name, address, and telephone number of the new Remedial Project Manager or  
14 Section Chief.

15 46. EPA's RPM and Section Chief shall have the authority vested in a Remedial Project  
16 Manager and On-Scene Coordinator (OSC) by the National Contingency Plan, 40 C.F.R. Part  
17 300. EPA's RPM and/or Section Chief shall have authority, consistent with the National  
18 Contingency Plan, to halt or direct changes to any Work required by this Order, and to take any  
19 necessary response actions.

## 20 XVII. ACCESS TO PROPERTY NOT OWNED BY RESPONDENT

21 47. If property subject to or affected by the Work is owned in whole or in part by one or  
22 more parties other than Respondent, Respondent shall obtain, or use its best efforts to obtain,  
23 access agreements from the present owner(s). Such agreements shall provide access for EPA, its  
24 contractors or designees, the state and its contractors, and Respondent or Respondent's  
25 authorized representatives and contractors, and such agreements shall specify that Respondent is  
26 not EPA's representative with respect to any liability associated with Work conducted by  
27  
28

Respondent at the property. Respondent shall hold EPA and its officials, agents, employees, contractors, subcontractors, or representatives harmless for or from any and all claims or causes of action or other costs incurred by EPA, including but not limited to attorneys fees and other expenses of litigation and settlement arising from or on account of acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Order. Copies of such access agreements shall be provided to EPA prior to Respondent's initiation of field activities. Respondent's best efforts to obtain property access shall include providing reasonable compensation to any property owner. If access agreements are not obtained by Respondent, Respondent shall immediately notify EPA of its failure to obtain access. Subject to EPA's non-reviewable discretion, EPA may use its legal authorities to obtain access for the Respondent, may perform those response actions with EPA contractors at the property in question, or may terminate the Order if Respondent cannot obtain access agreements. If EPA performs those tasks or activities with contractors and does not terminate the Order, Respondent shall perform all other activities not requiring access to that property. Respondent shall integrate the results of any such tasks undertaken by EPA into their reports and deliverables. EPA reserves the right to bring an action against Respondent under section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of all response costs (including attorney fees) incurred by EPA to obtain access for Respondent and to perform response actions at the property.

#### XVIII. ACCESS AND DATA/DOCUMENT AVAILABILITY

48. Respondent shall allow EPA and its authorized representatives and contractors to enter and freely move about all property subject to or affected by the Work under this Order for the purposes of inspecting conditions, activities, the results of activities, or records related to the Work; of reviewing the progress of the Respondent in carrying out the terms of this Order; of

1 conducting tests as EPA or its authorized representatives or contractors deem necessary; of using  
2 a camera, sound recording device or other documentary type equipment; and for the purpose of  
3 verifying the data submitted to EPA by Respondent. Respondent shall allow EPA and its  
4 authorized representatives to, on request, copy all records, files, photographs, documents,  
5 sampling and monitoring data, and other writings related to Work undertaken in carrying out this  
6 Order. Nothing herein shall be interpreted as limiting or affecting EPA's right of entry or  
7 inspection authority under Federal law.

8  
9 49. Respondent may assert a claim of business confidentiality covering part or all of the  
10 information submitted to EPA pursuant to the terms of this Order under 40 C.F.R. § 2.203,  
11 provided such claim is not inconsistent with section 104(e)(7) of CERCLA, 42 U.S.C.  
12 § 9604(e)(7) or other provisions of law. This claim shall be asserted in the manner described by  
13 40 C.F.R. § 2.203(b) and substantiated by Respondent at the time the claim is made. Information  
14 determined to be confidential by EPA will be given the protection specified in 40 C.F.R. Part 2.  
15 If no such claim accompanies the information when it is submitted to EPA, it may be made  
16 available to the public by EPA or the state without further notice to the Respondent. Respondent  
17 shall not assert confidentiality claims with respect to any data related to conditions at the Sites,  
18 sampling, or monitoring.

19  
20 50. Respondent shall maintain for the period during which this Order is in effect, an index of  
21 documents that Respondent claims contain confidential business information. The index shall  
22 contain, for each document, the date, author, addressee, and subject of the document. Upon  
23 written request from EPA, Respondent shall submit a copy of the index to EPA.

24  
25 51. Respondent shall, fourteen days prior to any off-site shipment of hazardous substances  
26 from the Sites to a waste management facility, provide written notification to the appropriate  
27  
28

1 state environmental official in the receiving state, and to EPA's Project Coordinator, of such  
2 shipment of hazardous substances. However, this notification requirement shall not apply to any  
3 samples sent off-site for laboratory analysis. The notification shall be in writing, and shall  
4 include the following information, where available:

5 A) the name and location of the facility to which the hazardous substances are to be  
6 shipped;

7 B) the type, characteristics and quantity of the hazardous substances to be shipped;

8 C) the expected schedule for the shipment of the hazardous substances;

9 D) the method of transportation; and,

10 E) the planned disposition of the hazardous substances (e.g. treatment, storage, disposal).

11 Respondent shall notify the receiving state of major changes in the shipment plan, such as  
12 decision to ship the hazardous substances to another facility within the same state, or to a facility  
13 in another state. Any off-site shipment of hazardous substances shall be accomplished by  
14 Respondent in a manner consistent with all applicable state and federal law, including but not  
15 limited to 42 U.S.C. Section 9621(d)(3) and implementing regulations. If EPA believes that any  
16 such shipment is or will be made in violation of any applicable state or Federal law, EPA may,  
17 under the authority of this Order, direct Respondent to stop or cease the shipment until  
18 Respondent demonstrates to the satisfaction of EPA that Respondent has come into full  
19 compliance with the applicable legal requirement. The provisions of this paragraph do not  
20 relieve Respondent of the responsibility to comply with all other applicable state or federal law  
21 regarding the transportation, storage, treatment or disposal of materials shipped off-site by  
22 Respondent.

1  
2  
3 XIX. DELAY IN PERFORMANCE

4 52. Any delay in performance of this Order that, in EPA's judgment, is not properly justified  
5 by Respondent, shall be considered a violation of this Order. Any delay in performance of this  
6 Order shall not affect Respondent's obligations to fully perform all obligations under the terms  
7 and conditions of this Order.

8 53. Respondent shall notify EPA of any delay or anticipated delay in performing any  
9 requirement of this Order. Such notification shall be made by telephone to EPA's RPM or  
10 Section Chief within forty eight (48) hours after Respondent first knew or should have known  
11 that a delay might occur. Respondent shall adopt all reasonable measures to avoid or minimize  
12 any such delay. Within five (5) business days after notifying EPA by telephone, Respondent  
13 shall provide written notification fully describing the nature of the delay, any justification for  
14 delay, any reason why Respondent should not be held strictly accountable for failing to comply  
15 with any relevant requirements of this Order, the measures planned and taken to minimize the  
16 delay, and a schedule for implementing the measures that will be taken to mitigate the effect of  
17 the delay. Increased costs associated with implementation of the activities called for in this  
18 Order is not a justification for any delay in performance.

19  
20 XX. MODIFICATIONS

21  
22 54. This Order and attached SOW may be amended or modified by EPA. Such amendment  
23 or modification shall be in writing and shall be signed by the Chief or Acting Chief, Site Cleanup  
24 Branch, Superfund Division, U.S. EPA Region IX.  
25  
26  
27

1 55. The EPA RPM, or in the RPM's absence, the EPA Section Chief, may agree to changes  
2 in any approved plan or schedule. Any such changes must be requested in writing by Respondent  
3 and be approved in writing by the EPA RPM, or, in the RPM's absence, by the EPA Section  
4 Chief.

5  
6 56. All modification requests submitted pursuant to this Section shall be sent by certified  
7 mail, return receipt requested, and addressed to the EPA RPM.

8  
9 57. No informal advice, guidance, suggestions or comments by EPA or EPA's  
10 representatives regarding reports, plans, specifications, schedules, or any other writing submitted  
11 by Respondent shall relieve Respondent of its obligations to obtain such formal approval as may  
12 be required by this Order, and its obligations to comply with all requirements of this Order.

13  
14 XXI. ASSURANCE OF ABILITY TO PERFORM WORK

15  
16 58. At least seven (7) days prior to commencing any Work pursuant to this Order,  
17 Respondent shall submit to EPA a certification that Respondent or its contractors and  
18 subcontractors have adequate insurance coverage or have indemnification for liabilities for  
19 injuries or damages to persons or property which may result from the activities to be conducted  
20 by or on behalf of Respondent pursuant to this Order. Respondent shall ensure that such  
21 insurance or indemnification is maintained for the duration of the Work required by this Order.

22  
23 XXII. EPA NOT LIABLE

24  
25 59. EPA, by issuance of this Order, assumes no liability for any injuries or damages to  
26 persons or property resulting from acts or omissions by Respondents, or their directors, officers,  
27

1 employees, agents, representatives, successors, assigns, contractors, or consultants in carrying out  
2 any action or activity pursuant to this Order. EPA shall not be deemed a party to any contract  
3 entered into by Respondents or their directors, officers, employees, agents, successors, assigns,  
4 contractors, or consultants in carrying out any action or activity pursuant to this Order.

### 6 XXIII. ENFORCEMENT AND RESERVATIONS

7  
8 60. EPA reserves the right to bring an action against Respondent under Section 107 of  
9 CERCLA, 42 U.S.C. § 9607, or to assert an administrative claim against Respondent GSA, for  
10 recovery of any response costs incurred by EPA related to this Order and not reimbursed by  
11 Respondent. This reservation shall include but not be limited to past, direct, indirect, and  
12 oversight costs, as well as the costs of compiling the cost documentation to support any cost  
13 demand, and accrued interest for all costs as provided in section 107(a) of CERCLA, 42 U.S.C.  
14 Section 9607(a).

15  
16 61. Notwithstanding any other provision of this Order, at any time, EPA may perform its  
17 own studies, or elect to complete the Work (or any portion of the Work) pursuant to the its  
18 authorities under CERCLA and the NCP, and EPA may seek reimbursement from Respondents  
19 for costs, or seek any other appropriate relief.

20  
21 62. Nothing in this Order shall preclude EPA from taking any additional enforcement  
22 actions, including modification of this Order or issuance of additional Orders, and/or selection of  
23 additional remedial or removal actions as EPA may deem necessary, or from requiring  
24 Respondents in the future to perform additional activities pursuant to CERCLA or any other  
25 applicable law. EPA reserves the right to bring an action against Respondent under section 107

1 of CERCLA, 42 U.S.C. § 9607, for recovery of the costs of any such additional actions  
2 undertaken by EPA.  
3

4 63. Notwithstanding any provision of this Order, the United States hereby retains all of its  
5 information gathering, inspection and enforcement authorities and rights under CERCLA, RCRA  
6 and any other applicable statutes or regulations with respect to the Montrose Plant property or the  
7 groundwater operable unit at the Sites..  
8

9 64. EPA reserves the right to seek enforcement of this Order and to collect civil penalties  
10 under section 106(b) of CERCLA, 42 U.S.C. § 9606(b), of not more than \$25,000 for each day in  
11 which Respondent willfully violates, or fails or refuses to comply with this Order without  
12 sufficient cause. In addition, failure to properly perform the Work required under this Order, or  
13 any portion hereof, without sufficient cause, may result in liability under section 107(c)(3) of  
14 CERCLA, 42 U.S.C. § 9607(c)(3), for punitive damages in an amount at least equal to, and not  
15 more than three times the amount of any costs incurred by EPA as a result of such failure to take  
16 proper action.  
17

18 65. Nothing in this Order shall constitute or be construed as a release from any claim, cause  
19 of action or demand in law or equity against any person for any liability it may have arising out  
20 of or relating in any way to the Sites.  
21

22 66. If a court issues an order that invalidates any provision of this Order or finds that  
23 Respondents have sufficient cause not to comply with one or more provisions of this Order,  
24 Respondents shall remain bound to comply with all provisions of this Order not invalidated by  
25 the court's order.  
26  
27  
28

1 XXIV. DOCUMENT SUBMISSIONS

2  
3 67. Upon request by EPA, Respondent must submit to EPA all technical documents and  
4 other information (including but not limited to laboratory data packages, field documentation,  
5 electronic and printed copies of data and data interpretation, printed and electronic copies of  
6 draft technical documents) produced by Respondent in complying with this Order for possible  
7 inclusion in the EPA site file or administrative record file.

8  
9 XXV. OPPORTUNITY TO CONFER

10  
11 68. Respondent may, within seven (7) days after the date on which this Order is signed,  
12 request a conference to discuss this Order with EPA at its Region IX offices located at 75  
13 Hawthorne Street in San Francisco, California. If requested, the conference shall occur on  
14 September 11, 2003 at 1 pm at 75 Hawthorne Street, San Francisco, California. Only one  
15 conference will be held with Respondent with respect to this Order.

16  
17 69. The purpose and scope of the conference shall be limited to issues involving the  
18 implementation of the Work required by this Order and the extent to which Respondent intends  
19 to comply with this Order. This conference is not an evidentiary hearing, and does not constitute  
20 a proceeding to challenge this Order. It does not give Respondent a right to seek review of this  
21 Order, or to seek resolution of potential liability, and no official stenographic record of the  
22 conference will be made. At any conference held pursuant to Respondent's request, Respondent  
23 may appear in person or may be represented by an attorney or other representative. Regardless of  
24 whether a conference is held, Respondent may submit any information, arguments or comments  
25 in writing to EPA within two (2) business days following the conference, or within seven (7)  
26 business days after the Order is signed if no conference is requested.

1  
2 70. Requests for a conference must be by telephone followed by written confirmation mailed  
3 that day to: John Lyons, Assistant Regional Counsel, Mailcode ORC3, US EPA Region IX, 75  
4 Hawthorne Street, San Francisco, California 94105.  
5

6 XXVI. EFFECTIVE DATE AND COMPUTATION OF TIME  
7

8 71. This Order shall be effective fourteen (14) days after the Order is signed by the Acting  
9 Chief or Chief, Site Cleanup Branch, Superfund Division, U.S. EPA Region IX. All times for  
10 performance of ordered activities shall be calculated from this effective date.  
11

12 72. This Order shall remain in effect until the date that Respondent receives from EPA  
13 written notice that all Work required by this Order has been completed, or the date that the  
14 District Court approves and enters a Consent Decree between EPA and Respondent regarding  
15 groundwater remedial design work with respect to the Sites, whichever occurs first.  
16

17 So Ordered, this 3<sup>rd</sup> day of September, 2003.  
18  
19

20  
21 BY: 

22 Elizabeth Adams  
23 Acting Chief, Site Cleanup Branch  
24 Superfund Division  
25 U.S. Environmental Protection Agency, Region IX

26 ATTACHMENTS

27 Attachment 1: Record of Decision

28 Attachment 2: Statement of Work